

Comments on Helium Stewardship Act (HSA) of 2013

Friday, April 4, 2014, 1:00 pm CST

Amarillo Field Office

Teleconference meeting

SPECIAL NOTE: The existing graph of helium production displayed on the website and the tabular data that support it were taken from a model option that did not include centralized compression. The BLM will have the new graph and table posted on the website shortly with slightly higher volume projections for years 2015 – 2021 and beyond.

Meeting notes

Introductions:

Attendees at AmFO:

Robert Jolley, Field Manager, Bureau of Land Management (BLM), Amarillo Field Office (AmFO)

Samuel Burton, Assistant Field Manager, Helium Operations, AmFO

David Reeves, Accountant, AmFO

Marji Bourque, Secretary, AmFO

Federal Participants by phone:

Noel Wagner, Acting Associate State Director, New Mexico State Office, Santa Fe, NM

Theresa Copeland, Office of the Solicitor, Albuquerque, NM

Timothy Spisak, Senior Advisor - Conventional Energy, with the Assistant Director Minerals & Realty Management, Washington, DC

Total Active Phone Lines: 45

Meeting Purpose: Robert Jolley

The purpose of the meeting is to go over comments that BLM received from the stakeholders meeting and to provide additional ideas based on received comments of where the BLM is heading in terms of federal register notice and our processes. The “**Comments Summary**” is posted on http://www.blm.gov/nm/st/en/prog/energy/helium_program/hsa_scoping.html.

Thirteen comments were received: 2 from private citizens and 11 from private industry members. Comments from 11 private industry members consisted of 5 non-refiners, 4 refiners, 1 end user, and 1 association. All of these comments are valuable in helping the BLM how we will implement the HAS requirements.

Summary of Comments: Robert Jolley

For the complete list of comments, see “**Comments Summary**” on the Helium Stewardship Act Public Scoping website listed above.

The BLM will lay out the process and rationale in detail in the Federal Register Notice (FRN) to be published. The FRN should be published around May 1. When the FRN is

published, individuals will have 30-days to make comments to the BLM. We will then carry out the final process of implementing HSA sales and auctions mandated by the HSA.

Tolling: Robert Jolley

There were many comments that did not favor the BLM setting prices or more aggressive government management of the tolling activity.

The BLM received 10 comments on tolling. The majority wanted the BLM to provide greater transparency and some mechanism that incentivizes tolling. The majority did not want the BLM to set prices for industry (both non-refiners and refiners), which would be an over-regulation and not a good idea. The consensus is that tolling must occur. BLM has certain tools at their disposal. Contractually, the BLM is obligated to sell at certain percentages. Redelivery of purchased or won at auction helium must be timely, pursuant to the legislation, and must be set by the “Contracting Officer” on a reasonable schedule after notification to the storage contract holders, per the current contract.

The BLM is proposing a redelivery mechanism that will incentivize refiners to enter into tolling agreements with non-refiners, but the BLM will not dictate the price and requirements at which they have to enter. The BLM will provide a redelivery incentive to refiners who have negotiated tolling agreements.

Auctions: Robert Jolley

The BLM received eight comments on auctions. Robert did research on different auctions: simultaneous ascending, simultaneous clock, and eBay and GSA style online. The BLM determined that the most simplistic and straightforward auction is a live auction in Amarillo. Bidders are required to be pre-qualified to participate in the auctions. Pre-qualification will include a standard pre-certification form to ensure each individual or entity has a business license, the ability to pay, etc. That pre-qualification process will be explained in the FRN and in the notice announcing the auction. We expect the first Fiscal Year (FY) 2015 auction to be conducted in June or early July of 2014. The lot sizes have not been identified yet but we are envisioning 5 or 10 MMCF lots. We are reviewing several different live auction formats. This will be explained in the FRN.

Pricing: Robert Jolley

The BLM reviewed how to do pricing for the auctions. Due to time constraints associated with 2014 sales and auction, the pricing for auctions will use FY2013 survey data escalated by a consumer index (PPI or other). The pricing process will be explained in the FRN. This will set the reserve price for the auctions. Once the auction is conducted, we will have an average price from the auctions, and then weigh that against the escalated price to determine the conservation sale price for FY 2015. The legislation states that the weighted average between the auction price and the survey results. In this case, 10 percent multiplied by the average auction price, plus 90 percent multiplied by the escalated market price to derive the conservation helium price.

Other Concerns: Robert Jolley

The BLM received a variety of other concerns regarding transparency. The BLM will do everything that we can and take all the input that you provide to us and put it on the Helium webpage. The BLM proposes to have quarterly stakeholder calls through the year to interact and discuss issues that are important to the stakeholder community.

Questions and Answers:

- **Question:** Will you follow-up with Tim's redelivery?
 - ✓ **Answer: (Robert)** *Yes, we will provide an overview of what our priorities are in that redelivery. There is an article in the contract that gives the contracting officer the ability to set reasonable redelivery/delivery schedules.*

Prioritization of Redelivery: Tim Spisak

The BLM has been discussing this internally to try to come up with the prioritization of redelivery. Over a period of time (such as a month or a quarter), there needs to be communication between refiners, other sellers, and the BLM to what their needs are for sales that they have.

The first priority would be sales associated with supplying helium to in-kind or federal users. The second priority would be helium sold at auction. Buyers will be paying a premium over the minimum prices, and the premium would therefore buy them a priority in redelivery. The BLM needs a mechanism to deliver helium that was purchased before passage of the HSA.

Over the period, there would be amounts that will be adjusted according to how much capacity the system needs to have to deliver. There would be adjustments associated with refiners who do helium tolling for others, which would provide an incentive in the allocation process.

If none of the Refiners toll, that gas will accumulate and be held back from period to period (month to month or quarter to quarter) and will not be available. The refiner(s) that participates in tolling activities will see an increase in gas allocation based on their tolling. The BLM is not setting the price or making you toll, but it is beneficial for refiners that toll who will get a larger percentage of the delivered gas than those who do not toll.

The FRN will explain and provide examples of how delivery works. Everyone will have an opportunity to comment when the FRN is published.

Questions and Answers continued:

- **Question:** What happens in the scenario where assuming there's a shortage; what happens if you end up with a period that no one wants to take the allocation lots at auction?
 - ✓ **Answer: (Robert)** *If the lots are not purchased, then they stay in the governments possession in the reserve. BLM is required to offer them for sale, but not required to have people buy them.*

- **Question:** You mentioned that you would like to have a live auction in Amarillo. Will there be an accommodation for some sort of remote bidding or will it specifically be in Amarillo?
 - ✓ **Answer: (Robert)** *We would like to set up a system for a proxy bid, but we're not sure how that would work. We think it is only fair for all the bidders who make the effort to come to Amarillo that there be some representation by that party who desires to bid. We will look at the possibility of proxy bidders. I would like to use technology for remote bidding, but until I am confident that such a system will not fail, we will use the live auction process. My fear is that the electronic form will not work, and there will be protests that hold up the auction.*
- **Question:** So an acting person could be at the live auction and do a proxy bid?
 - ✓ **Answer: (Robert)** *Yes. Moreover, the BLM would assume no liability if that phone connection was broken. I have no objection to proxy bidders, but they have to be at the live auction in Amarillo. We will attempt to work out a method of proxy bidding that is fair to all. This will be included in the FRN.*
- **Question:** Have you decided about selling more helium for FY14?
 - ✓ **Answer: (Robert)** *We are in the process of making that determination. The BLM legal team believes there is a requirement to sell and the legislation is clear. We are trying to determine the amount. I believe there will be a smaller FY14 sale, but it may not be the large volumes that you expect. It may be a portion of that volume. We are waiting for the legal interpretation of the federal helium system and our maximum production capacity.*
- **Question:** Regarding redelivery, when do you anticipate this taking place in light of the existing storage contract?
 - ✓ **Answer: (Robert)** *It is within the existing storage contract. When we looked at the existing storage contract, we weighed the legislative requirements with our contractual obligations to develop this process. The delivery schedule, within reason, is the purview of the contract officer. As long as the delivery schedule and priorities are reasonable, and I communicate that to all storage holders, I have the authority to make that determination.*
 - ✓ *We intend to change the storage contract at the end of FY15. The BLM will abide by the contractual obligations through the end of this current contract (September 30, 2015). Then we intend to modify the contract for storage holders to be more in-line with the HSA of 2013 and with our new closure date of September 30, 2021.*

Closing Remarks: Robert Jolley

I know everyone was hoping that I could lay out everything in this meeting, but please understand that we received the comments and we are working on a process. Our biggest challenge is meeting the congressional intent of tolling which was clear in their terms and conditions of selling or auctioning helium. With our contractual obligations and not coming down heavy handed and establishing a price that you must enter into and a volume that you must toll as a condition of sale. I think the general comments from the public and from the

industry did not want me to do that. We want to set up a system that incentivizes industry to toll, and rewards the industry for those that participate in tolling for conducting the toll.

As part of the BLM being transparent, the meeting notes will be posted to the website as soon as they are processed.

We hope you have a great weekend. Look for the next notification hopefully in May that the FRN will be published. Thank you very much.

Q:/AFM/Public Scoping Meetings/Comments on HSA - meeting notes 2014-4-4.